

House Study Bill 282

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation by the department of
2 agriculture and land stewardship of the sale of motor vehicle
3 fuel including increasing the license inspection fee for
4 retail motor vehicle fuel pumps, prohibiting the sale of
5 gasoline below a certain cost, providing for penalties, and
6 making appropriations.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
8 TLSB 3212YC 81
9 kk/gg/14

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1 1 Section 1. Section 214.3, subsection 3, paragraph e,
2 subparagraph (2), Code 2005, is amended to read as follows:
1 3 (2) Retail motor vehicle fuel pump, ~~nine~~ nineteen dollars.
1 4 Sec. 2. NEW SECTION. 323B.1 DEFINITIONS.
1 5 1. "Average terminal price" means the arithmetic mean of
1 6 all prices, minus the high and low prices, for an individual
1 7 grade of gasoline at the supplying terminal published by a
1 8 nationally recognized petroleum price reporting service.
1 9 2. "Cost" means all of the following:
1 10 a. The basic cost of gasoline per gallon to a retailer at
1 11 invoice from a wholesaler and any taxes, fees, and freight not
1 12 included in the basic cost plus an amount equal to eight
1 13 percent of the basic cost at invoice, and any taxes, fees, and
1 14 freight.
1 15 b. The basic cost of gasoline per gallon to a wholesaler
1 16 from a supplying terminal which is equal to the average
1 17 terminal price of the supplying terminal and any taxes, fees,
1 18 and freight plus an amount equal to three percent of the
1 19 average terminal price, and any taxes, fees, and freight.
1 20 3. "Department" means the department of agriculture and
1 21 land stewardship.
1 22 4. "Gasoline" means all products, excluding diesel, of a
1 23 type commonly distributed or known as gasoline fuel, including
1 24 ethanol blended gasoline, for use in self-propelled vehicles
1 25 designed primarily for use on public streets, roads, and
1 26 highways.
1 27 5. "Refiner" means a person engaged in the refining of
1 28 crude oil to produce gasoline whether or not such refining
1 29 occurs in this state and includes an affiliate of such person.
1 30 6. "Terminal" means a storage facility to which gasoline
1 31 is shipped by pipeline, barge, or rail from which gasoline is
1 32 subsequently transferred to another location and includes a
1 33 refiner.
1 34 Sec. 3. NEW SECTION. 323B.2 UNLAWFUL FUEL SALES.
1 35 1. Any offer for sale of gasoline by a refiner,
2 1 wholesaler, or retailer by way of posted price or indicating
2 2 meter that is below cost is a violation of this chapter unless
2 3 one of the following exceptions applies:
2 4 a. The offer to sell is pursuant to a bona fide clearance
2 5 sale for the purpose of discontinuing trade in such gasoline.
2 6 b. The offer to sell is upon the final liquidation of a
2 7 business.
2 8 c. The offer to sell is by a fiduciary or other officer of
2 9 a court under the direction of the court.
2 10 d. The offer to sell is made in good faith to meet the
2 11 price of a competitor who is offering the same gasoline at a
2 12 selling price not below cost.
2 13 e. The offer to sell is for not more than twenty-four
2 14 consecutive hours occurring once per quarter after written

2 15 notification to the department.
2 16 f. The offer to sell is for not more than forty-eight
2 17 consecutive hours and offered pursuant to a grand opening of a
2 18 retailer's business location after written notification to the
2 19 department.
2 20 2. A retailer or wholesaler shall not offer or accept
2 21 coupons or discounts that reduce the price of the gasoline
2 22 below the cost except as specifically provided in this
2 23 chapter.
2 24 Sec. 4. NEW SECTION. 323B.3 PENALTIES == FINES ==
2 25 APPROPRIATIONS.
2 26 1. A person found to be in violation of this chapter shall
2 27 be subject to a penalty to be imposed by the department as
2 28 follows:
2 29 a. For a first violation within a fiscal year, a fine of
2 30 five thousand dollars.
2 31 b. For a second violation within a fiscal year, a fine of
2 32 ten thousand dollars.
2 33 c. For a third violation within a fiscal year, a fine of
2 34 fifteen thousand dollars.
2 35 d. For a fourth violation within a fiscal year, the
3 1 gasoline pumps at the site of the violation shall be tagged
3 2 and rendered inoperable for thirty days.
3 3 e. For more than four violations within a fiscal year, the
3 4 gasoline pumps at the site of the violation shall be tagged
3 5 and rendered inoperable for ninety days.
3 6 2. All fines collected for violations of this chapter
3 7 shall be deposited in a separate fund of the department and
3 8 are appropriated as follows:
3 9 a. Forty-five percent of each fine collected is
3 10 appropriated to the department to enforce the provisions of
3 11 this chapter.
3 12 b. Fifty-five percent of each fine collected is
3 13 appropriated to the department of justice for the use of the
3 14 attorney general to enforce the provisions of this chapter.
3 15 Sec. 5. NEW SECTION. 323B.4 ENFORCEMENT.
3 16 1. The department shall enforce the provisions of this
3 17 chapter with the assistance of the attorney general.
3 18 2. The attorney general may seek enforcement of chapter
3 19 553 against a person alleged or found to be in violation of
3 20 this chapter. The occurrence of more than four violations of
3 21 this chapter within a fiscal year shall be evidence of a
3 22 monopoly of trade or commerce under section 553.5.
3 23 3. The department shall receive complaints for alleged
3 24 violations of this chapter. A complaint shall include the
3 25 name and business location of the alleged violator, the posted
3 26 price of the gasoline, and the name and contact information of
3 27 the person filing the complaint.
3 28 Sec. 6. NEW SECTION. 323B.5 RULES.
3 29 The department shall adopt rules pursuant to chapter 17A as
3 30 necessary to administer this chapter.
3 31 EXPLANATION
3 32 This bill relates to the regulation of the sale of motor
3 33 vehicle fuel by the department of agriculture and land
3 34 stewardship. The bill increases the license inspection fee
3 35 for retail motor vehicle pumps collected by the department of
4 1 agriculture and land stewardship from \$9 to \$19. In new Code
4 2 chapter 323B, the bill prohibits the sale of gasoline by a
4 3 refiner, wholesaler, or retailer for a price below cost.
4 4 "Cost" is defined by the bill for retailers as the invoice
4 5 cost from a wholesaler to a retailer including taxes, fees,
4 6 and freight plus an additional 8 percent of the basic cost at
4 7 invoice, and any taxes, fees, and freight. "Cost" is also
4 8 defined by the bill for wholesalers as the average terminal
4 9 price of the supplying terminal including taxes, fees, and
4 10 freight plus an additional three percent of the average
4 11 terminal price, and any taxes, fees, and freight.
4 12 The bill permits the sale of gasoline for a price below
4 13 cost if the sale is made pursuant to a bona fide clearance
4 14 sale, upon the final liquidation of a business, by a fiduciary
4 15 or other officer of a court under the direction of a court, in
4 16 good faith to meet the price of a competitor, for not more
4 17 than 24 hours after notice to the department, and for not more
4 18 than 48 hours pursuant to a grand opening of a retail location
4 19 after notice to the department. The bill prohibits a retailer
4 20 or wholesaler from offering or accepting coupons or discounts
4 21 that reduce the gasoline price below cost.
4 22 The bill provides penalties for violations including a fine
4 23 of \$5,000 for a first violation within a fiscal year, \$10,000
4 24 for a second violation within a fiscal year, and \$15,000 for a
4 25 third violation within a fiscal year. A fourth violation is

4 26 punishable by tagging and rendering inoperable the gasoline
4 27 pumps at the site of the violation for 30 days. If a person
4 28 has more than four violations within a fiscal year, the
4 29 gasoline pumps at the site of the violation shall be tagged
4 30 and rendered inoperable for 90 days. The bill provides that
4 31 45 percent of the fines collected by the department shall be
4 32 appropriated to the department and that 55 percent of the
4 33 fines collected shall be appropriated to the department of
4 34 justice, for purposes of administration and enforcement of the
4 35 new Code chapter.

5 1 The bill provides for enforcement of new Code chapter 323B
5 2 by the department and the attorney general. The attorney
5 3 general may enforce provisions of Code chapter 553 related to
5 4 competitive activities and the bill provides that the
5 5 occurrence of more than four violations within a fiscal year
5 6 is evidence of a monopoly under that chapter. The department
5 7 may adopt rules to enforce new Code chapter 323B.

5 8 LSB 3212YC 81
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